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March 21, 2001

Sent via e-mail and either hand delivery
or U.S. Mail

Mary L. Cottrell, Secretary
Massachusetts Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: Verizon New England, Inc. d/b/a Verizon Massachusetts Sixth Annual Price Cap
Compliance Filing, D.T.E. 00-101

Dear Secretary Cottrell:

Enclosed for filing is the Initial Brief of the Attorney General together with a
Certificate of Service.

Sincerely,

Wilner Borgella, Jr.
Assistant Attorney General
Regulated Industries Division

WB/wb

cc: Joan Foster Evans, Hearing Officer (w/ 2 enc.)
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Service List for DTE 00-101 (w/enc.)

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Verizon New England, Inc. d/b/a)

Verizon Massachusetts' Sixth Annual Price Cap) D.T.E. 00-101
Compliance Filing)

INITIAL BRIEF OF THE ATTORNEY GENERAL

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Verizon Massachusetts' Sixth Annual Price Cap) D.T.E. 00-101

INITIAL BRIEF OF THE ATTORNEY GENERAL

I. Introduction and Summary of Argument

Pursuant to the briefing schedule established in this proceeding by the Department of Telecommunications and Energy ("DTE"), the Attorney General submits his Initial Brief in which he addresses the issues of (1) identification of proposed service rate reductions and increases subject to revisions arising from the price floor calculation adjustments, (1) and (2) irregularities and/or ambiguities in the Filing and the data contained in the Filing. The Attorney General has conducted a review of Verizon New England, Inc. d/b/a Verizon Massachusetts' ("Verizon") Sixth Annual Price Cap Compliance Filing ("Filing") together with various information requests ("Information Requests") and related responses ("Responses"). Based upon this review, the Attorney General urges the DTE to:

direct Verizon to identify those proposed service rate reductions and increases which are subject to revisions arising from adjustments ordered by the DTE in the price floor docket, 94-185-F, and to reconcile or supplement the Filing accordingly; and

direct Verizon to reconcile or otherwise explain various irregularities and/or ambiguities pertaining to the Filing.

II. Statement of the Case

On May 12, 1995, the DTE adopted a price cap model or plan ("Price Cap Plan") of regulating intrastate retail telephone operations. NYNEX, D.P.U. 94-50. On an annual basis thereafter, Verizon has submitted compliance filings in accordance with the Price Cap Plan. The present Filing, which Verizon filed on October 2, 2000, is Verizon's sixth (6th) such annual filing. In response to the Filing, the Attorney General filed Initial Comments on December 4, 2000, urging the DTE to, among other things, allow the proposed revenue reductions to take effect immediately without suspension. (2) Thereafter, on December 6, 2000, the DTE conducted a public hearing and procedural conference in connection with the Filing. During the hearing, the DTE solicited comments on how to allow the proposed revenue reductions to go into effect immediately and how to revise or reconcile those reductions as a result of potential subsequent adjustments in the price floor calculations.

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In Reply Comments filed on December 11, 2000, the Attorney General urged the DTE to, among other things, allow the proposed revenue reductions to take effect immediately with respect to those services that would not be affected directly and significantly by revisions in the price floor calculations. That same day, the Attorney General issued an Information Request seeking information on those services and rate elements likely to be affected by revisions in the price floor calculations and clarification on various irregularities and/or ambiguities relating to the data contained in the Filing and the methods utilized in compiling that data. (3) On December 14, 2000, the DTE issued an Interlocutory Order allowing the proposed rate reductions and increases to go into effect subject to further investigation consistent with the procedural schedule outlined at the procedural conference. On January 22, 2001, the DTE closed the discovery process and no parties requested further evidentiary proceedings. (4)

The DTE, on February 22, 2001, in the related Price Floors docket, D.T.E. 94-185-F, held that Verizon would be allowed to use updated information that reflected more current data and would not be confined to using older data or figures used in the 1998 price floor filing ("Price Floor Filing"). (5) (Order, p. 4). The DTE also held that Verizon would be allowed to include end user common line ("EUCL") charges or revenues in its calculation of the marginal cost of related overhead. (Order, p. 3). The DTE also held, however, that Verizon had failed to meet its burden in support of including other revenues or revenue accounts in the calculation of the marginal cost of related overhead. (Order, p. 3-4). As a result, the DTE ordered a recalculation of the overhead expense factor consistent with its decision. (Order, p. 4). On March 1, 2001, Verizon filed revised price floor calculations in accordance with the DTE's Order. (6) Finally, one day earlier, on February 28, 2001, the DTE established a briefing schedule allowing parties to brief areas of continued concern or controversy.

III. Argument

A. The DTE should direct Verizon to identify the services and rates affected by the price floor recalculation and to incorporate or otherwise reconcile in the Filing any changes to the services or rates.

In Information Request AG-VZ-1-1, the Attorney General asked Verizon to identify every rate element and proposed rate reduction (and increase) which would be affected by changes in the price floor calculations. Verizon responded that "[i]f the Department were to revise the price floor calculations contained in the filing, the specific rates that would be subject to change, if any, would depend on the magnitude of the Department-ordered changes to the price floors... [a]ccordingly, it is impossible at this time to identify specific rates that may be subject to change." (Response, AG-VZ-1-1). Now that Verizon has been apprised of the magnitude of the required changes to the price floor calculations and, indeed, has submitted revised price floor calculations, Verizon should now be required to identify those services and/or rates (together with revenue reductions or increases) which are affected by the price floor recalculations. Additionally, Verizon should incorporate those changes or adjustments into the Filing or otherwise reconcile the Filing to take into account the changes. Finally, in light of the newfound changes to proposed services and rates (together with revenue reductions and increases), Verizon should indicate whether it intends to keep proposed allocations of reductions and increases the same or whether Verizon intends to redistribute these proposed reductions and increases in light of the newfound figures.

Verizon indicated in its February 16, 2001 letter responding to AT&T's Evidentiary Comments filed in this docket, that Verizon could file a supplement to its Filing by April 17, 2001, reconciling demand estimates for three new services⁽⁷⁾ with actual data for those services. The Attorney General recommends that the DTE direct Verizon to reconcile its price floor recalculations within the Filing by that same date, April 17, 2001, and to file a supplement reflecting the reconciliation.

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B. The DTE should direct Verizon to reconcile or otherwise explain various irregularities and/or ambiguities pertaining to the Filing and the data contained in the Filing.

In Information Requests AG-VZ-1-5 through AG-VZ-1-7, the Attorney General asked Verizon to explain the discrepancies between the figures appearing in the Filing of October 2, 2000, and those appearing in the revised Price Floor Filing of August 24, 2000 ("August Filing"), with respect to the Business Link, Baystate Metropolitan, Baystate Non-Metropolitan, Business-MTS Eastern LATA, and Residence-MTS Eastern LATA services. Verizon's Response to the request attributed the discrepancies to its use of data from different study periods (1998 versus 1999 data) and to competitive impacts and migration to other services. (Response, AG-VZ-1-5 -- AG-VZ-1-7). In light of the short period of time (approximately 1.5 months) between the August Filing and the Filing of October 2, 2000, however, the discrepancies appear to be irregular. (8)

Verizon's Response suggests there is an inconsistency in Verizon's methodology. On the one hand, Verizon advocates and defends its use of "updated data" in its August Filing versus data used in the 1998 Price Floor Filing. Yet based on the different updated data contained in its Filing of October 2, 2000, Verizon apparently declined to use data which were available to it when it made its August Filing. Verizon has provided no rationale for its use of data from different study periods for filings taking place less than two months apart. In the absence of an explanation regarding why Verizon chose to use data from different study periods, it appears that Verizon undertakes certain actions or methods, such as using updated data, only when such actions or methods work in Verizon's favor.

Verizon's Responses to other Information Requests of the Attorney General, together with Responses to certain Information Requests of AT&T, ATT-VZ-1-6 and ATT-VZ-1-7, similarly raised concerns regarding both the methods Verizon used to calculate its figures or data and the rationale behind these methods. It is these same unexplained irregularities or ambiguities in Verizon's actions and/or methods that initially gave rise to the lengthy price floor controversy.

The Attorney General recommends that the DTE direct Verizon to provide explanations for the irregularities and/or ambiguities in its Filing and to provide supporting documentation for those explanations.

IV. Conclusion

For all of the foregoing reasons, the Attorney General urges the DTE to: (1) direct Verizon to identify those proposed service rate reductions and increases which are subject to revisions arising from adjustments ordered by the DTE in the price floor calculations, and to

reconcile or supplement the Filing accordingly, and (2) direct Verizon to reconcile or otherwise

meaningfully explain the noted irregularities and/or ambiguities pertaining to the Filing.

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Respectfully submitted

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by: _____

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Dated: March 21, 2001

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Verizon New England, Inc. d/b/a)
Verizon Massachusetts' Sixth Annual Price Cap) D.T.E. 00-101
Compliance Filing)

_____)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated by the Secretary to the Department by e-mail and either hand delivery or U.S. mail.

Dated at Boston this 21st day of March 2001.

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1. In a related docket, Verizon's Price Floors, D.T.E. 94-185-E & F, a price floors dispute involving certain price floor calculations has bearing in this matter. Adjustments in the price floor calculations would be reflected in applicable sections of the Filing.
2. Other parties of interest, including AT&T Communications of New England, Inc. ("AT&T"), also filed comments.
3. See Attorney General's First Set of Information Requests. AG-VZ-1-1 -- AG-VZ-1-10. AT&T also issued Information Requests which included AT&T First Set of Information Requests on January 18, 2001 and AT&T Second Set of Information Requests on January 22, 2001.
4. The deadline for requesting further evidentiary proceedings was set for February 5, 2001. AT&T filed comments on that day ("Evidentiary Comments") which did not request further evidentiary hearings but which did reiterate various issues of concern to AT&T.
5. The DTE noted in its Order that AT&T previously had challenged Verizon's use of updated data which resulted in figures different from those stated in the Price Floor Filing. (Order, p. 4).
6. Verizon filed its price floor recalculations without work papers or any other supporting documents. AT&T has expressed concerns regarding those omissions in its March 12, 2001, letter commenting on the omission. (D.T.E. 94-185-F).

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7. Sound Deal Package, Sensible Minutes Plan and Local Package.

8. This circumstance involving discrepancies between the August Filing and the Filing of October 2, 2000, stands in contrast with the circumstance involving discrepancies between 1998 Price Floor Filing and the August Filing. In the former, there existed less than a two-month time span between the filings while in the latter, there existed a two-year time span which prompted Verizon to use more current information and data when it submitted its revisions.